

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 26, 2005

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 26, 2005, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr. Vice-Chair; James Barfield; Darrell Downing; John W. McKay Jr.; Bill Johnson; Ronald Marnell; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; and Frank Garofalo. Gary K. Gibbs, Morris K. Dunlap, Chair; Denise Sherman and Bud Hentzen were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Associate Planner; and Rose Simmering, Recording Secretary.

1. Approval of April 28, 2005 meeting minutes.

GAROFALO I have two minor verbiage corrections not associated with any motions. I will forward them to MAPD staff.

MOTION: To approve the April 28, 2005 meeting minutes as amended.

MITCHELL moved, **DOWNING** seconded the motion, and it carried (10-0).

❖ SUBDIVISION ITEMS

2. Consideration of Subdivision Committee recommendations from the meeting of May 19, 2005.

2-1. SUB2005-17 – Revised Final Plat – ANTLER POINT 2ND ADDITION, located on the north side of 37th Street North and east of 247th Street West.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Andale Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. Revisions to the drainage plan need to be approved by County Engineering prior to MAPC. County Engineering has approved the flood study.**
- E. The plat needs to clearly depict that the drainage reserve overlaps the KGE easement.
- F. An onsite benchmark is needed.
- G. The south 700' of this plat is in separate ownership and will need to be dedicated by separate instrument. **The Applicant will submit an off-site dedication of street right-of-way or an off-site right-of-way agreement.**
- H. **Sedgwick County Fire Department** requires that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. The applicant shall guarantee the installation of the cul-de-sacs to the 36-ft rock suburban street standard.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- K. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater. **Sedgwick County shall be referenced in the drainage note.**
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL This Plat was approved by Subdivision Committee last week. Commissioner Mitchell made the motion for approval that included a condition regarding the Drainage Plan submittal. The applicant was to receive County Engineering approval of the flood analysis of Cowskin Creek, which adjoins the western boundary of the plat.

I did receive word from County Engineering this morning that revision to the Drainage Plan had been made as requested. There was to be a composite of the Flood Study Work Map submitted to Commissioner Mitchell today. Jim Weber from County Engineering is present today.

MITCHELL At your stations today is a letter from me regarding my position on this plat. The changes I have requested have been made and shown to me today.

MOTION: To approve the Revised Final Plat subject to staff recommendation, and to amend the plat to show an elevation change on Lots 3-7, and to change the Drainage Reserve for the Cowskin Creek Floodway Area to a Floodway Reserve.

MITCHELL moved, **MCKAY** seconded the motion, and it carried (10-0).

2-2. DED2005-15 – Dedication of Street Right-of-Way and DED2005-16 – Dedication of a Utility Easement. for property located on the north side of 33rd Street North and west of Arkansas.

A) DED 2005-15: Dedication of Street Right-of-Way and B) DED 2005-16: Dedication of a Utility Easement for property located on the north side of 33rd Street North and west of Arkansas.

APPLICANT: Dorlan Bales and Kathryn Damiano, 1124 N. Hydraulic, #304, Wichita, KS 67214

AGENT/SURVEYOR: Don Armstrong, Armstrong Land Survey, 1601 E. Harry, Wichita, KS 67211

LEGAL DESCRIPTION: A) The west 30 feet of the west 150 feet of the east 316.62 feet of the south 290.5 feet of Lot 21, Walnut Grove Addition, Wichita, Sedgwick County, Kansas; and B) The north 10 feet of the west 150 feet of the east 316.62 feet of the south 290.5 feet of Lot 21, Walnut Grove Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATIONS: These dedications are associated with a lot split case (SUB 2005-37) and are for 30 feet of additional street right-of-way along Jeanette and for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedications.

MOTION: To approve subject to staff recommendations.

MARNELL moved, **BARFIELD** seconded the motion, and it carried (10-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

3-1. VAC2005-19 – Request to Vacate a Portion of the Platted Street Side Yard Setback.

APPLICANTS/OWNERS: John Dickerson & Stacy Stocker

AGENT: Rice – Foster Associates c/o David Foster

LEGAL DESCRIPTION: Generally described as the west 10-feet of the platted 25-foot street side setback running parallel to the east lot line of Lot 15, Block 2, Country Place Estates Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located north of 13th Street North and east of Rock Road, more specifically on the northeast corner of the Crestwood Court – Crestwood Street intersection (WCC District #2)

REASON FOR REQUEST: Lap pool enclosure and lap pool

CURRENT ZONING: Site and all properties in the area are zoned "SF-5" Single-family Residential

The applicants are requesting consideration to vacate the west 10-feet of the platted 25-foot street side yard setback, along its north 97.50-feet of length. The applicant proposes to build a lap pool enclosure and a lap pool. There are no franchised utilities, sewer lines, manholes or water lines in the setback. The Country Place Estates Addition was recorded with the Register of Deeds March 21, 1979.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of a portion of the platted 25-foot street side yard setback, as described.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 5, 2005 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted street side yard setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted 25-foot street side yard setback described in the petition should be approved with conditions:
- (1) Vacate the west 10-feet of the platted 25-foot street side yard setback along the north 97.50-feet of Lot 15, Block 2, the Country Place Estates Addition, as recorded with Wichita, Sedgwick County, Kansas.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
 - (3) All improvements shall be according to County Standards.
 - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

- (1) Vacate the west 10-feet of the platted 25-foot street side yard setback along the north 97.50-feet of Lot 15, Block 2, the Country Place Estates Addition, as recorded with Wichita, Sedgwick County, Kansas.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.

- (3) All improvements shall be according to County Standards, including any driveways from private property onto public ROW.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

MARNELL moved, **DOWNING** seconded the motion, and it carried (10-0).

3-2. VAC2005-20 – Request to Vacate a Portion of the Platted Front Setback.

APPLICANTS/OWNERS: Icer S. Vaughan

AGENT: Jeff Bonnett

LEGAL DESCRIPTION: 6-inches of the platted 20-foot front setback running parallel to the east lot line of Lot 1, Block A, the Auburn Hills 9th Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between Maple Street & Kellogg Avenue, on the southeast corner of the 135th Street West – Links Street intersection (WCC District V)

REASON FOR REQUEST: Title Insurance

CURRENT ZONING: Site and all property in the area are zoned “SF-5” Single-family Residential.

The applicants are requesting consideration to vacate 6-inches of the platted 20-foot front yard setback. Upon purchase of the property the applicant was required to have a mortgage title survey, which revealed the garage roof encroaching less than a foot into the platted 20-foot front yard setback. To obtain title insurance the applicant is required to vacate the setback where the encroachment is located. There is a platted 15-foot utility – drainage easement that is within the platted 20-foot set back. There is a sewer line and manhole in the platted 15-foot utility – drainage easement. There are no franchised utilities, sewer lines, manholes or water lines in the platted setback. The Auburn Hills 9th Addition was recorded with the Register of Deeds March 1, 1999.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of a portion of the platted 20-foot front yard setback, as described.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

- 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 5, 2005 which was at least 20 days prior to this public hearing.
- 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted front yard setback and the public will suffer no loss or inconvenience thereby.
- 3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted 20-foot front setback described in the petition should be approved with conditions:

- 1. Vacate 1-foot of the platted 20-foot front yard setback, where the encroachment occurs on Lot 1, Block A, the Auburn Hills 9th Addition, as recorded with Wichita, Sedgwick County, Kansas. Provide Staff with a metes and bounds description of the area of encroachment, on a word documents via e-mail.
- 2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- 3. All improvements shall be according to City Standards.
- 4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

1. Vacate 1-foot of the platted 20-foot front yard setback, where the encroachment occurs on Lot 1, Block A, the Auburn Hills 9th Addition, as recorded with Wichita, Sedgwick County, Kansas. Provide Staff with a metes and bounds description of the area of encroachment, on a word documents via e-mail.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
3. All improvements shall be according to City Standards.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

MARNELL moved, **DOWNING** seconded the motion, and it carried (10-0).

3-3. VAC2005-21 – Request to Vacate Platted a Platted Alley.

APPLICANTS/OWNERS: Delano Barbecue F&T Properties

LEGAL DESCRIPTION: Generally described as that portion of a platted 15-foot alley right-of-way (ROW), running north – south, abutting the west side of Lot 71 and the east side of Lot 69, all in the West Wichita Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located between Seneca Street and Sycamore Street, midway between Oak Street and the Osage Street, on the north side of Douglas Avenue (Council District IV)

REASON FOR REQUEST: Expansion of existing buildings

CURRENT ZONING: Site is public ROW. Properties north of the site are zoned "LI" Limited Industrial. Properties east and west of the site are zoned "LC" Limited Commercial. Properties south of the site, across Douglas Avenue, are zoned "GC" General Commercial.

The applicants are requesting consideration to vacate the 15-foot wide (x) 125-foot long portion of a north-south platted alley that runs between the previously described lots and ends at its south end at its intersection with Douglas Avenue and on its north end with another alley, which runs east-west. There are no sewer lines, manholes or water lines in the easement. There are franchised utilities, gas & electric, in the alley. The site is within the Delano Overlay District and within a Historical Environs and will need to comply with the applicable development standards. Both abutting property owners have signed the petition and application to vacate. The West Wichita Addition was recorded with the Register of Deeds August 4, 1872.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted alley ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 5, 2005 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted alley ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted alley ROW, described in the petition should be approved with conditions:
- (1) Vacate that portion of the alley that abuts Lots 69 & 71, the West Wichita Addition, ending at its point of intersection with Douglas Avenue on its south side and the platted –east-west alley on its north side.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. There are gas and electric utilities in the platted alley; retain the alley as an easement until all utilities have been relocated.
 - (3) All improvements shall be according to City Standards, including any applicable development standards, per the Delano Overlay District and the Historical Environs. Provide a guarantee for continuation of the curb and the sidewalk.

- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- 1) Vacate that portion of the alley that abuts Lots 69 & 71, the West Wichita Addition, ending at its point of intersection with Douglas Avenue on its south side and the platted –east-west alley on its north side.
- 2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. There are gas and electric utilities in the platted alley; retain the alley as an easement until all utilities have been relocated.
- 3) All improvements shall be according to City Standards, including any applicable development standards, per the Delano Overlay District and the Historical Environs. Provide a guarantee for continuation of the curb and the sidewalk.
- 4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

MARNELL moved, **DOWNING** seconded the motion, and it carried (10-0).

WARNER There are agenda items on today's agenda that the planning department has received requests from the applicant/agent to defer to a MAPC public hearing in the future. We need to see if there is anyone from the public in the audience to speak on those agenda items.

SCHLEGEL Let's do the deferred agenda items first so if there are citizens here today that want to leave they can do that.

❖ **PUBLIC HEARINGS – ZONING ITEMS**

4. **Case No.: ZON2004-67** – TPI Petroleum, Inc., c/o Douglas Miller; Viet Le (contract purchaser) Request Zone change from "LC" Limited Commercial and "B" Multi-family Residential to "GC" General Commercial on property described as;

Lots 289, 290, 291, 292, 293, 294 and 295, except the North 10 feet of Lot 289 for street right-of-way, all on Hydraulic Avenue in Granville Park Addition to Wichita, Sedgwick County, Kansas. Generally located at the southwest corner of Hydraulic Avenue and 13th Street North

WICHITA CITY COUNCIL RETURNED TO MAPC ON 5-3-05

BACKGROUND: The applicant requests a zone change from "LC" Limited Commercial and "B" Multi-family Residential to "GC" General Commercial on Lots 289 – 295, the Granville Park Addition. The subject properties are located on the southwest corner of Hydraulic Avenue and 13th Street North. The applicant proposes redevelopment of the property for used car sales and auto bodywork and painting. The "GC" zoning district allows outdoor vehicle and equipment sales and auto bodywork and painting.

The subject site currently has a vacant 1,000-square foot gas station building on it. The applicant proposes to build an additional 2,400-square foot building behind it for auto mechanical work, bodywork and painting. The applicant proposes to use the vacant building as office space for both of the proposed uses. The applicant has proposed to enclose the area where the paint and body works will be located with a privacy fence and with a 5-foot landscape buffer on its south side where it abuts a Legion Hall and on its east and west sides where it is adjacent to residential zoning. The applicant has also proposed to close the entrances onto the site from Pennsylvania Avenue.

East of the subject site and across Hydraulic Avenue are a dentist office, zoned "LC", and single-family residences, zoned "LC" and "B". South of the subject site there is American Legion Post 273, zoned "LC", and single-family residences, zoned "B" and "SF-5" Single-family Residential. West of the subject site, across Pennsylvania Avenue, there is a vacant lot, zoned "LC", and single-family residences, zoned "SF-5". North of the subject site, across 13th Street North, there is a car sales lot, a warehouse, a bar and a neighborhood retail strip containing a self-service laundry, barber and beauty shops and some vacant space. All of these developments are zoned "LC".

CASE HISTORY: The Granville Park Addition was recorded with the Register of Deeds April 20, 1887. The site is in the McAdams Neighborhood Revitalization Plan, which was approved by the Wichita – Sedgwick County Metropolitan Area Planning Commission (MAPC) April 24, 2003 and adopted by the Sedgwick County Board of County Commissioners (BoCC, Resolution 114-03) May 14,

2003 and the Wichita City Council (WCC, Ordinance 45-726) June 3, 2003. The site is also in the McAdams Neighborhood Rezoning area (DR2004-04), which was recommended by the MAPC October 7, 2004 and approved by the WCC (Ordinance 46-405) November 19, 2004. The MAPC deferred this case at their January 13, 2005 meeting and instructed the staff and applicant to present it to DAB I for consideration. DAB I will consider this case at their February 7, 2005 meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" Limited Commercial	Local retail, warehouse, bar, car sales
SOUTH:	"LC" Limited Commercial "SF-5" Single-family Residential "B" Multi-family Residential	American Legion Hall Single-family residences
EAST:	"B" Multi-family Residential "LC" Limited Commercial	Single-family residences Dentist office
WEST:	"LC" Limited Commercial "SF-5" Single-family Residential	vacant property Single-family residences

PUBLIC SERVICES: The subject property has access to 13th Street North, a four-lane arterial with a center turn lane. Current traffic volumes are approximately 13,784 – 14,369 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on 13th Street North will increase to approximately 22,500 vehicles per day. This estimate of future traffic volumes on 13th Street was made prior to the Central Railroad Corridor Project, which will put the railroad tracks over 13th Street, eliminating traffic stoppages due to train traffic. The site also currently has access onto both Pennsylvania Avenue and Hydraulic Avenue, two-lane residential streets. Municipal water and sewer services and all other utilities are available to this site.

CONFORMANCE TO PLANS/POLICIES: The McAdams Neighborhood Revitalization Plan has stated that a lack of neighborhood serving retail commercial services is an economic development issue for this area and the 13th Street North corridor. The plan identifies the need for a grocery store, a restaurant, a pharmacy and a dry cleaner for the area. The plan has also designated the 13th Street North – Hydraulic intersection as a primary Neighborhood Entryway, with proposed landscaping and signage integrated into a designed entrance. The applicant's proposed uses of a car sales lot and an auto paint and body shop do not match the goals of the plan. The new zoning brought about by the McAdams Neighborhood Rezoning ordinance had as a stated principle that no property will be rezoned to a less restrictive zoning classification. The proposed rezoning of "LC" and "B" to "GC" does not conform to that principle.

The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. There are two other car sales lots in the area, one north of the site across 13th Street North and another approximately 1,000-feet west of the site, past IH-135, on 13th Street North and Cleveland Avenue. Both of these car sale lots were in place prior to the adoption of both the McAdams Neighborhood Revitalization Plan and the McAdams Neighborhood Rezoning and as previously stated, neither the proposed rezoning nor the proposed uses meet the goals or principles of those adopted ordinances.

RECOMMENDATION: In the past the MAPC has identified smaller car sales lots as being more of a local retail establishment in their nature, as opposed to the cluster of larger car sales lots located primarily along Kellogg Avenue and Broadway Avenue, which are more regional in their nature. The MAPD has also recommended that buildings that had in the past been used for automobile activities, such as gas stations, be considered as possible sites for car sales. The MAPC and the MAPD have also noted, in a past case, that certain corridors that serve as gateways or entrances into the community (Zoo Boulevard and West Street is an example) are not appropriate sites for car sales. The 13th Street North and Hydraulic Avenue intersection has been designated as a major entrance into the McAdams neighborhood. The implementation of the McAdams Rezoning ordinance and the McAdams Revitalization Plan do not indicate this site as appropriate for a less restrictive zoning (the requested "GC" zoning) to allow an auto paint and body shop or for a car sales lot. Based upon information available prior to the public hearing, planning staff recommends that the request be DENIED. Staff does recommend that the site's lot that is zoned "B" be rezoned "LC" to match the rest of the site's zoning.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is that of various local retail uses, an American Legion Post, office and two used car sales lots, all along the 13th Street North frontage. Single-family residential development is located behind these non-residential uses. All of the properties east of IH-135 along 13th Street North are zoned "LC" Limited Commercial. The two existing car sales lots were in place prior to the implementation of the McAdams Neighborhood Rezoning and the Revitalization Plan. One of the car sales lots, the one north across 13th Street North from the subject site, appears to be a less than robust business, which is not out of character with this section of 13th Street North. The proposed used car lot is not in conformance with the goals of the McAdams Neighborhood Revitalization Plan. There are no auto body and paint shops in the area and the proposed "GC" General Commercial zoning does not conform to the principles of the McAdams Neighborhood Rezoning.
2. The suitability of the subject property for the uses to which it has been restricted: The north six of the seven lots of the subject site are zoned "LC" Limited Commercial, with the most southern lot zoned "B" Multi-family Residential. The property is suitable for the commercial uses to which it has been restricted, which includes the neighborhood serving retail commercial services that the neighborhood has stated as needed for economic redevelopment of the area. The single "B" zoned lot is too small to be developed and should be rezoned "LC" to match the rest of the subject site's zoning.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed uses of a car sales lot and an auto body works and paint shop do not match the goals of the McAdams Revitalization Plan, which has stated that there is a need for the development of neighborhood serving retail commercial services in the area. Allowing another car sales lot into the area is not the type of development that the neighborhood has indicated it needs or wants. An auto body and paint shop is completely out of character with the area and does not match the neighborhood's needs or goals for economic redevelopment. If approved, both proposed uses could bring a similar type of development onto the vacant lot west of the site, which would seem to be at odds with the neighborhood's stated goals of attracting local retail development. A more appropriate location in the McAdams Neighborhood for both proposed uses would be south of 17th Street North between Mosley Avenue and Washington Boulevard, where there is an existing industrial corridor that has similar uses as those proposed.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The proposed uses do not match the goals of the McAdams Neighborhood Revitalization Plan. The plan noted a need for local retail development, including the specific need for a grocery store, a restaurant, a pharmacy and a dry cleaner for the area. The proposed rezoning from "LC" and "B" to "GC" is contrary to the stated principle of the McAdams Neighborhood's rezoning that no property will be rezoned to a less restrictive zoning classification.
5. Impact of the proposed development on community facilities: The proposed uses of this property would have limited impact on community facilities.

If, however, the Planning Commission finds a car sales lot as an appropriate use for this site, staff recommends that the site's "B" Multi-family Residential zoned lot (Lot 295) be rezoned to "LC" Limited Commercial to match the rest of the site's "LC" zoning and a Conditional Use for vehicle sales outdoors be approved subject to the following conditions:

1. All requirements of Article III, Section III.D.6.x. Of the Unified Zoning Code (UZY) shall be met. Any variance from Article III, Section III-D, 6.x of the UZY would require a waiver approved by the Wichita City Council.
2. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business.
3. The applicant shall dedicate by separate instrument an additional 10-feet of street right-of-way along the property's 13th Street North frontage within six months of final approval of the Conditional Use.
4. The applicant shall dedicate by separate instrument complete access control along the site's Hydraulic Avenue and Pennsylvania Avenue frontages. Where existing access is currently located on these frontages, the applicant shall guarantee the continuation of the curb, per City Standards.
5. No elevated display areas.
6. Parking spaces for employees and customers shall be provided on the property as required by the UZY and in conformance with the standards established by the City Traffic Engineer. The parking spaces shall be marked and designated for employees and customers and shall not be used for display or storage of vehicles for sale, unless an employee drives the vehicle. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business unless additional parking spaces for such businesses are provided per a revised site plan approved by the Planning Director.
7. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
8. A landscape plan, per the Landscape Ordinance, shall be submitted, including landscaped street yards and a landscape buffer along the south side of the site and the east and west sides where the site is adjacent to residential zoning, which shall be provided and maintained on the property as approved by the Planning Director.
9. A revised site plan reflecting the conditions of approval (including Section III.D.6.x. of the Unified Zoning Code) shall be submitted for approval by the Planning Director within six months of approval of the Conditional Use by the MAPC or governing body, as applicable. The site plan shall include a 6-foot wooden, stockade type fence located on the south side of the site and along the eastern and western portions of the site where it is adjacent to residential zoning, all lighting, including those on the building, the location and size of the office and garage space within the current building and any additional buildings, approved signage and solid screening around the trash receptacle.
10. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
11. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
12. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

BILL LONGNECKER Planning staff presented the staff report.

GAROFALO So the recommendation would not allow the paint shop, is that correct?

LONGNECKER That would be correct.

GAROFALO They would be able to have the car sales, and that is it?

LONGNECKER That would be one of the two options you would have. The recommendation by the DAB and WCC was to rezone that "B" Multi-family lot to "LC" Limited Commercial. The other option staff offered was, if the Planning Commission felt it appropriate for this site, was to have the "B" Multi-family zoned property rezoned "LC" Limited Commercial, with a Conditional Use for auto sales over the entire site.

WARNER Are you saying we don't have the Option of #1?

LONGNECKER The MAPC can consider and make that recommendation and send it back to WCC.

WARNER Is Recommendation #2 something the applicant is requesting?

LONGNECKER No.

WARNER So someone comes in applying for zoning for a use, pays his fees, and does all this work and then we give him something else, something that is not what he applied for, and basically it's to bad for the applicant? Is that how it works? Is that how it works?

LONGNECKER This was not an arbitrary decision. The staff recommendation was based on the McAdams Rezoning Plan and the McAdams Revitalization Plan, which were approved by the MAPC, as listed in the case history on page two of the staff report.

WARNER Do those two plans recommend rezoning that one lot?

LONGNECKER No, the plan for the rezoning recommends that there be no zoning that is less restrictive than the zoning that is currently there. A less restrictive zoning for these two properties would be the "GC" General Commercial zoning as opposed to the "LC" Limited Commercial and "B" Multi-family zoning.

TIM AUSTIN POE AND ASSOC. My prior testimony before the Planning Commission was on behalf of the contract purchaser, Viet Le. If you will recall at the Feb. 10, 2005 MAPC meeting, the question was raised of Mr. Le whether when he was doing the "GC" General Commercial zoning in terms of his contract purchase, basically it was an all or nothing for him.

As I stand before you today, that contract has been withdrawn. Today I am representing TPI Petroleum, Inc., who is the actual property owner. TPI Petroleum would be agreeable to the staff recommendation on the "LC" Limited Commercial zoning with the Conditional Use to allow the car sales.

The only objection the current property owner would have with the staff recommendation would be Condition #3, the additional 10-feet of street right-of-way dedication. As noted previously from the other public hearings, 13th & Hydraulic have been recently improved, and it was felt that if the City had needed that right-of-way at that time they could have acquired it. There is not an immediate need that has been identified that would require the additional right-of-way dedication.

BARFIELD Mr. Viet Le is no longer the contract purchaser?

AUSTIN Correct, Mr. Viet Le withdrew his contract after the May 3, 2005 WCC meeting.

BARFIELD TPI Petroleum is agreeable to change the one portion of this "B" Multi-family Residential to "LC" Limited Commercial?

AUSTIN TPI Petroleum is agreeable to change the "B" Multi-family Residential lot to "LC" Limited Commercial with the Conditional Use to allow car sales.

BISHOP In regards to the objection from the applicant regarding Condition #3, would a contingent dedication make any difference?

AUSTIN No, any type of dedication for additional right-of-way would encroach upon existing improvements in terms of the parking lot, the structure, signs, the building setback and the canopy of the station, and we would object to it.

GAROFALO I have a question for staff. How does this request fit in with the McAdams Redevelopment Plan? Does a used car sales lot at that location fit in with what was approved for the McAdams Plan?

LONGNECKER No. On page five of the staff report, item three lists some of the specific uses recommended in the area. Those uses include a grocery store, a restaurant, a pharmacy and a dry cleaner. The McAdams Plan states that there is a need for the development of neighborhood serving retail commercial services in the area. Noting that we do have two car sales lots that are in the area that were in place prior to the adoption of the McAdams Plan and the rezoning. The one right across the street, I cannot find a Conditional Use for, and the other one is on the west side of I-135.

BISHOP The car sales lot across the street is that operating illegally?

LONGNECKER No.

BISHOP Is it grandfathered?

LONGNECKER It appears to be so.

BARFIELD I want to draw your attention to the portion that you highlighted of the City Council action, which addresses the main reason this case was returned to us. That was to have us reconsider the request and take the action that the DAB recommended, which would mean to deny the requested "GC" zoning and the car sales lot.

LONGNECKER Although I did not highlight this section, I apologize for it being so hard to read because of the dark highlight. The City Council sent this back for recommendation with only the "B" zoned lot to be rezoned "LC".

BARFIELD The last sentence says the DAB recommended to deny. Is what I am reading?

LONGNECKER The DAB recommendation was only to rezone that one "B" zoned lot to "LC". The DAB had a discussion about looking at this site as a possible car sales lot, and the contract purchaser at that time was asked if they would go with a Conditional Use for a car sales lot and they said no. So the DAB at that time advised to only to have the "B" zoned lot rezoned "LC" with no Conditional Use for car sales.

BARFIELD The protest petition was to deny the change of zoning which would allow a car lot correct?

LONGNECKER That is not correct. The protest petition was against the car sales lot, and the paint and body shop with the "GC" zoning.

JEANNE THOMPSON, 1331 N. Pennsylvania I was at the City Council meeting, and our protests were against the car sales lot and the paint and body shop. We already have car lots in the area, and we don't want a third car lot. There is no way to protect the neighborhood from the paint fumes of a paint and body shop.

WARNER The paint shop is not on the table at this time.

THOMPSON We don't want the car lot. It will not be good for the neighborhood, and it will not be a productive situation. It could end up looking like the car lot across the street.

BARFIELD You are opposed to a car lot at that location?

THOMPSON I am opposed to a car lot at this location. If they want to put something else in there, maybe a restaurant or a grocery, that would be better.

TIM AUSTIN Car sales is an option recommended by staff, and it could be more retail serving. The other thing about the McAdams Plan is that prior to the development of the plan there was a study from WSU on the potential for industrial/commercial development in the area, and the conclusion of that study is that retail is not an option. If you look at the retail buildings that are directly across the street and slightly to the east of this location, they only have about a 75% occupancy rate. Based on the past history of this property it is not desirable for a retail property. There have not been any contracts but the one contract that has been withdrawn. With the direction of the City on the 21st Street Revitalization Plan we don't see 13th Street being a corridor for retail development.

BARFIELD Since you were here last there have been some other retail entities in the area developing. Look at the current traffic along the 13th Street corridor. There should be an increase in traffic according to the 2030 plan. I have lived in this area almost my entire life, and I want to follow the recommendation of the City Council.

MOTION: To deny the request for "GC" General Commercial zoning but rezone the "B" Multi-family zoned lot to "LC" Limited Commercial to match the rest of the site's "LC" Limited Commercial zoning.

BISHOP moved, **BARFIELD** seconded the motion.

MARNELL I am going to oppose that motion because I think the conditions that staff has laid out would be an appropriate use of that land on a lot that has stayed vacant.

BISHOP One of the goals for the McAdams Neighborhood Plan is that is a gateway into that neighborhood. They already have a car lot on that one side, and now to have one on the other side is not what a neighborhood would regard as a nice gateway into the neighborhood.

MITCHELL Do you include the additional right-of-way for 13th Street in your motion?

BISHOP I assume not because that is part of the recommendation for the used car lot.

ALDRICH Has there been any additional inquiries besides the car lot for that property?

AUSTIN No.

SUBSTITUTE MOTION: To take the staff recommendation, Alternative #3, that would include the outside vehicle sales with the exception of Condition #3 which is donating land to the City for no payment, so I want that removed.

MARNELL moved, **MITCHELL** seconded the motion.

BARFIELD Tim, how long have you been involved with this property?

AUSTIN I think since the 1st of December 2004, or maybe a little longer.

BARFIELD You said there has not been any other inquiries since December 2004 to now?

AUSTIN I am speaking as of this morning. To date they have not had any other inquiries. At the DAB meeting Council member Brewer did make a comment that someone did inquire on that property, that the American Legion had made inquiries into that property. TPI has never received a contract, and to the extent that someone inquired on that property I asked the broker if he was aware of an offer from the Legion and he said no.

BARFIELD I can tell you that there have been three inquiries.

AUSTIN Let me point to that, inquiry and bringing a contract are two different things.

GAROFALO I am going to oppose the substitute the motion. Why would the MAPC approve the McAdams Plan and then not give it an opportunity to work. I think we need to give this plan a chance to work, and according to the McAdams Plan a used car sales lot is not recommended for that corner.

WARNER If this passes and allows the used car lot, it would not limit any other retail use of this property, correct?

LONGNECKER Everything that would be permitted by right within the "LC" Limited Commercial zoning district would be permitted on this site. The only thing that the Conditional Use would address would be car sales on the lot.

WARNER Therefore if the applicant had an inquiry and they wanted to open a retail outlet or whatever that just because they have this Conditional Use doesn't mean that could not happen?

LONGNECKER Correct, any use permitted by right in the "LC" zoning district could happen.

VOTE ON THE SUBSTITUTE MOTION FAILED (5-5).
(BARFIELD, DOWNING, ALDRICH, BISHOP and GAROFALO opposed to substitute motion).

VOTE ON THE ORIGINAL MOTION CARRIED (6-4).
(JOHNSON, MCKAY, MARNELL and MITCHELL opposed).

5. **Case No.: ZON2005-16** – Evelyn Nicholson (applicant); Baughman Company, P.A., c/o Terry Smythe (agent) Request Sedgwick County Zone change from "RR" Rural Residential to "LI" Limited Industrial on property described as;

The East Half of the Southeast Quarter of Section 16, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas except the North 70 acres thereof and except parts taken for road on the East and the South. Generally located on the north side of 53rd Street North, west of Ridge Road.

MAPC DEFERRED 5-12-05

WARNER Agenda Item 5 has been requested to be deferred until June 23, 2005. Is there anybody here that came to speak specifically on Item 5? If so, you will have an opportunity to speak.

SCHLEGEL We did send out a letter to people in the notification area letting them know that this Item would be deferred.

WARNER I will recognize that nobody responded to speak today from the audience. We do not need a motion to defer today?

MILLER If you say the agenda Item is deferred, I don't think you need a motion or a vote.

6. **Case No.: CON2005-15** – Axis Iron & Metal Recycling Co. c/o Alvie & Laurie Campbell (owner/applicant); Moehring & Associates c/o Craig Moehring (agent) Request Conditional Use for wrecking/salvage yard on property zoned "GI" General Industrial on property described as;

Lots 27, 29, 31, & 33, Block 15, Original Town of North Wichita Addition, Wichita, Sedgwick County Kansas together with Lot 2, Block 3, Bridgeport Industrial Park I, Wichita, Sedgwick County, Kansas. Generally located North of 33rd Street North and west of St. Francis.

WARNER We just heard at the beginning of this meeting that they are requesting this agenda item to be deferred for two weeks. Is there anybody here in the audience that would like to speak either for or against this agenda item?

SCHLEGEL On this agenda item, we did not have the opportunity to send a letter to the notification area letting them know that this item would be deferred today, so there may be people here today that came to speak on this item. The Planning Commission may want to decide to let citizens here today to give testimony today.

ROGER SHERWOOD, ATTORNEY, P O BOX 830, WICHITA KS 67201 I was contacted this morning by the applicants, and we would request for a two week deferral on this agenda item.

WARNER Is there anyone here in the audience today to speak in favor or in opposition to this agenda item? I will note that there are citizens here today in the audience. We need a motion or a consideration from the Planning Commission whether we are going

to hear this case, and we probably need to let these people give their testimony since they made a special effort to appear at the hearing today.

SCHLEGEL The question here is whether to allow the people that showed up to give testimony today; to allow them, if they wish, to put their testimony on record, or to defer the case for two weeks.

WARNER If we allow that, can we make it a part of the record in two weeks?

SCHLEGEL Yes that is what you would be doing.

WARNER Without the full hearing?

SCHLEGEL You probably should just continue the public hearing until the next meeting so that you could hear any additional testimony that anyone wants to give at that time.

MCKAY Are we going to hear a full-blown presentation?

MARNELL I think we ought to find out if people could return for the full hearing, and if they could, then I think we should wait, because then I think we end up with improper hearings. The group that is here today will not be the group that will be here the next time. It will be some mix, and it will be who hears what.

MCKAY I agree.

WARNER The people who are here to speak on this item, would you be able to return in two weeks with your testimony?

LESLIE HICKS I assume I could take off work again in two weeks and speak. I am unclear as to why we are deferring it though.

WARNER The applicant is requesting the deferral.

JOHNSON Is there any way to make this the first item on the zoning agendas items?

SCHLEGEL Yes.

MOTION: To defer two weeks.

DOWNING moved, **MCKAY** seconded the motion, and it carried 10-0.

7. **Case No.: CON2005-16-** April L. Speyer Revocable Trust (April Speyer) / Baughman Company, P.A. (Russ Ewy) Request Sedgwick County Conditional Use for converting existing structure into an accessory apartment on property zoned "RR" Rural Residential on property described as;

A tract of land lying in the NE 1/4 of Section 12, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as follows: The south 384.5 feet of the north 2,251 feet of the west 200 feet of the NE/4. Generally located approximately 1/4 mile south of 31st Street south and on the west side of 154th Street East.

BACKGROUND: The applicant, April L. Speyer Revocable Trust, is seeking a Conditional Use permit to allow an "accessory apartment." The applicant owns approximately 15 unplatted acres that are divided almost equally between three tracts located on the west side of south 154th Street East, approximately 2,037 feet south of 31st Street South. (Through the April Trust the applicant also controls an additional 32.84-acre tract located immediately west of the application area, and an additional 10 acres located east of 154th Street.) The three 5-acre tracts are developed with a single-family residence, corrals, driveways, lagoon, pond and parking, and at least three accessory buildings – horse barn, garage and covered riding arena. The northernmost of the three 5-acre tracts is developed with horse corrals that are approximately 214 feet wide, north to south. The middle tract contains nearly all of the structures located on the applicant's ownership – the home, garage, horse barn, portions of the corrals, most of the riding arena and parking areas. The southernmost tract contains the southern 85 feet of the riding arena, a pond and additional corrals.

The riding arena is approximately 226-foot by 114-foot, and is located on the 1.76-acre application area that is located along the western boundary of the applicant's ownership (The application area is located approximately 685 feet west of 154th Street East, 285 feet south of the applicant's northern property line and 120 feet north of the applicant's southern property line). The arena structure is located approximately 603 feet northwest of the closest house to the south, and approximately 667 feet southwest of the closest house to the north. It is this riding area that is the focus of this Conditional Use request for an "accessory apartment." The applicant proposes to construct a three-bedroom two-bathroom unit in the northern 19 feet three inches of the existing riding arena to accommodate hired help.

The applicant's property is part of a larger area that has been divided into 30 approximately 5-acre tracts. These five-acre tracts are primarily located to the north, east and south of the applicant's property. Larger tracts are located to the west. All property surrounding the applicant's property is zoned RR Rural Residential and is generally used for pasture or developed with single-family residences.

In Article III, Sec. III-D.6.a the "Unified Zoning Code" (UZC) subjects accessory apartments to the following standards:

1. One accessory apartment is allowed on the same lot as a single-family dwelling, and it may be within the main building, within an accessory building or constructed as an accessory building.

2. The appearance of the accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood.
3. The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium.
4. The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling. Other utilities may be provided separately.

The UZC defines a family as "an individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit."

CASE HISTORY: None identified

ADJACENT ZONING AND LAND USE:

NORTH: RR, Rural Residential; corrals, single-family residential
SOUTH: RR, Rural Residential; corrals, single-family residential
EAST: RR, Rural Residential; corrals, single-family residential
WEST: RR, Rural Residential; pasture

PUBLIC SERVICES: The site utilizes a lagoon for sanitary sewer service. Municipal water service is not available. 154th Street is a local serving sand and gravel street. 31st Street is a paved two-lane arterial.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide" depicts this site as appropriate for "rural" uses. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses and large lot residential subdivision with provisions for future water and sewer services.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The accessory apartment shall be subject to the supplementary use regulations contained in Article III, Sec. III-D.6.a of the "Unified Zoning Code.
2. When requested by County Code Enforcement staff the applicant shall mark or identify the four corners of the area covered by this application.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of approval, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the site is zoned RR Rural Residential, and is developed with single-family residences or is used for agricultural uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential which permits one single-family residence except that the Unified Zoning Code allows an accessory apartment in the RR district with a Conditional Use permit. The property also contains horse barns, corrals and other horse related facilities. The site could continue to be used as currently zoned (without the accessory apartment); however the applicant proposes to locate the accessory apartment inside an existing structure. The apartment will be indistinguishable from the existing riding arena. The site already has driveways and parking areas suitable to serve the accessory apartment so installation of the accessory apartment will have virtually no effect as far as the appearance of the property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Since the unit is to be located within an existing structure, and given the significant distances the unit will be located from adjoining residential structures (greater than 600 feet), nearby properties should experience little impact. The proposal should be less detrimental than if the applicant chose to build a new residence on one of the other tracts she owns.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Sedgwick County Development Guide" depicts this site as appropriate for "rural" uses. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses and large lot residential subdivision with provisions for future water and sewer services.
5. Impact of the proposed development on community facilities: County Code Enforcement staff have advised planning staff that the existing lagoon and water supplies can be made to accommodate the proposed use. There may be some increased traffic on 154th Street. However any anticipated traffic increase can be accommodated by existing facilities since there could be at least two other residences on the applicant's three tracts.

DALE MILER Planning Staff, presented the staff report.

RUSS EWY, BAUGHMAN COMPANY, Ms. Speyer is in Arkansas and is not present today. We are in agreement with staff conditions.

DOWNING This apartment is going to be fitted inside the existing structure, and so the outside will not be changed in any way?

EWY That is correct. The outside will not be changed. There will be no substantial difference in the physical nature of what is developed out there now. Those tarps will role up for the riding arena to let air in. There will not be an add on.

ALDRICH Presently there is a lagoon that is serving that area right now?

EWY Yes, it is servicing the house.

ALDRICH What about expansion? Will that be able to take care of that? If they decide to expand past this at what point will that lagoon not be serviceable?

EWY The lagoon and water system is sufficient, and the applicant has discussed this development with the County Building Inspector as well as the County Health Department; both are going to be able to be adequate. Any expansion would require another Conditional Use hearing. If there is to be any other expansion of the existing sewer lagoon it would have to go through the permitting process of the County Health Department and County Code Enforcement.

LARRY LASHAY, 3555 S. 154th East, Wichita KS 67232 I live directly south of the proposed accessory apartment. I am opposed to this application. I am not sure what the definition of employees is, and at this time we see children coming out to catch the school bus. If the employee gets married, does the wife and the children move in, to where then we need a bigger building? I have lived here for 17 years, and one of the major reasons we moved there was for the peace and quite. I am worried about more traffic on that road, foot and auto. There is already a school bus coming there now. I am concerned if it is an apartment accessory for how many people does that mean, four, five or 10. What if more employees need to be hired? Are they going to be able to expand, and how many times? I don't think employees should include wife and children of that employee.

BEVERLY INGAM, 311 S. Volutsia, Wichita, KS 67211 I live north of this property. I am concerned about the nature of this subdivision changing from a single-family rural residential exclusively with custom-built homes. If I owned undeveloped land and I bought the 5-acre lot next door, should I not be able to do exactly the same thing, and put up a similar multiple dwelling to take care of my employees or whoever buys my land. If I sell my land, is it going to be a detrimental factor that there is a large family of employees in a building that is not a single-family dwelling setup right next door? Some of the land that you saw in those photos is my land. It is hay. I have not developed my land in any way because I do not want to change the nature of the single-family exclusive rural residence of this property. Which would impact adversely upon the other residence in the area who bought this land from Ira Pray who put in the county road according to the zoning specifications, and met all the other requirements according to the zoning with the understanding that he was developing a single-family, rural residential area.

HELEN LASHAY, 3555 S. 154th, Wichita, KS 67232 I live south as well, and our major concern is that currently they are working people that live in that barn. Every morning the school bus stops here, and there are children out there, about two to three children. We see them over there all the time. This has been going on for a longtime. Probably about five years now this has been going on. Are these people moving out of the barns into this apartment or are we bringing more people in? I moved to the country because I love the country; I like the peace and quite. I work in Wichita and drive in Wichita everyday. If she wants apartments for her people let her go to town and pay for the apartments in town. I drive from my house to work everyday, and they can drive from their residence to work. I am opposed to these apartments.

RUSS EWY You can take this either way. You can describe them as having apartment(s) in the plural; obviously this is a small three bedroom, two-bath accessory apartment within an existing structure. Peace and quite, automobile traffic, obviously if the family lives there they are not commuting too and from this property, therefore limiting several trips a day. There was a question raised from Beverly whom I have spoken with on the phone with last week, and my answer to her first question should she be able to do this with her property? Absolutely. This is a fairly large horse farm, and there takes a certain amount of manpower to operate this type of facility. I think this is a reasonable and needed addition to this property. There are accessory apartments that have been permitted throughout this County as well as in the City of Wichita within predominately single-family residential developments that have worked perfectly well.

MITCHELL What range of activities can be going on at the arena before it becomes a commercial operation, and rather than a rural residential.

MILLER As long as the horses that she is using there are her own horses then she does not need a Conditional Use for a stable operation, and could probably have outside people come in and participate and leave just like you would if somebody would be just coming over to do something and then they leave. The issue is whether or not the horses that are staying on the site are her horses or not. We have been told that all the horses on the site are under her ownership.

MITCHELL If she required people to pay and come to her place and ride her horses would that change things?

MILLER Then I think she would need the Conditional Use for the horse arena or the stables.

GAROFALO Is this a working farm or ranch?

EWY She raises quarter horses.

GAROFALO Does she sell them?

EWY She has a stud horse that she breeds, basically a quarter horse breeding operation. It is not a commercial stable, riding academy or horse boarding facility.

GAROFALO So she has to have a whole lot of employees?

EWY No, she has a family that stays there. My understanding is the husband works the ranch and the wife is a housekeeper.

GAROFALO That is whom this accessory apartment is for?

EWY Yes, a couple and children.

ALDRICH You said they may be bringing horses in for the purpose of breeding; do those horses stay over night?

EWY Perhaps, I don't know

ALDRICH Where would that fall in line as far as a Conditional Use goes?

EWY My understanding is you have to have a commercial stable operation, this is not stabling this is for breeding purposes.

ALDRICH I am confused because you just got done saying there would not be any other horses but hers on there, and now you are saying that there can be other horses brought on. Is that in violation of the conditional provisions?

MILLER Not of this particular Conditional Use. There is a separate Conditional Use that she would have to have if she is housing horses that she does not own. That makes her a stable and she would have to have a Conditional Use to operate a stable.

ADRICH At what point does one horse have to stay there that is not hers before it becomes housing?

MILLER That is really a call for the enforcement officers. In my opinion, if she does not own to horse that is stabling there then that would trigger the need for a Conditional Use for the stable, however this is a separate request that has nothing to do with a horse stable. This is strictly for an accessory apartment.

MOTION: To approve subject to staff recommendations.

DOWNING moved, **BISHOP** seconded the motion, and it carried 10-0.

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8. **Case No.: ZON2005-20** – Exacta Machine Co, Casey Voegeli (applicant), Baughman Co PA, Terry Smythe (agent) Request Zone change from "SF-5" Single-family Residential and "LC" Limited Commercial to "LI" Limited Industrial on property described as:

WARNER We also have a request for deferral on this Item for two weeks.

SCHLEGEL This is another agenda Item that we have sent a letter to the notification area telling them that this agenda item would not be considered today.

WARNER Since we sent the letter out, this agenda item is deferred consensually, and no action is necessary from the Planning Commission.

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9. **Case No.: ZON2005-18** – John E Dugan Family Partnership, LP (owner); Baughman Company, PA, c/o Terry Smythe (agent) Request Sedgwick County Zone change from "SF-20" Single-family Residential to "LI" Limited Industrial on property described as;

RE: The South Half of the Northeast Quarter of Section 7, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas except the East 60 feet thereof for road. Generally located approximately 1/2 mile south of 31st Street South on the west side of Maize Road.

BACKGROUND: The applicant requests "LI" Limited Industrial zoning on an 80-acre unplatted site that is currently zoned "SF-20" Single-family Residential, for speculative future industrial use. The application area is approximately one-half mile south of 31st Street South on the west side of Maize Road. The property currently is in agricultural use. Also a salt-water remediation well is located on the site.

Two distinct areas surround this site with Maize Road acting as the boundary between them. The land west of Maize Road to the north, southwest and west of the site is zoned "SF-20" and is mainly in agricultural or low-density residential use. The land south of the site is being developed as Harvest Ridge Addition, with 165 single-family lots in the first phase and another 245 approved as part of a preliminary plat on the western edge of the site. The unincorporated town of Schulte, southwest of the site, has some single-family residential development in it and there is expansion of the Catholic Church's facilities in the town. The area east of Maize Road, which is zoned "LI", is a large industrial area on both sides of K-42 and anchored by the Wichita Mid-Continent Airport and Cessna Aircraft. There is vacant land within the industrial area to be developed. Also, industrial uses are located along K-42 south of the single-family development.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20" Agricultural
SOUTH: "SF-5" Single-family residential

EAST: "LI" Industrial
WEST: "SF-20" Agricultural

PUBLIC SERVICES: Maize Road (103rd Street West) is a two-lane paved county road designated as an urban minor arterial. Traffic counts were approximately 5,020 cars per day in 2004. Projected traffic volumes for 2030 are 11,200 cars per day. No future capital improvements projects are programmed for this segment of Maize Road.

Municipal water and sanitary sewer service are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* adopted by the Sedgwick County Board of County Commissioners and by the Wichita City Council identifies the east half of the site as "low-density residential"/"2030 urban service area". The west half is identified as "rural". The comprehensive plan amendments adopted by MAPC on April 28, 2005 shows the area as "urban development mix" and inside the "Wichita 2030 urban service area". Urban development mix comprises predominately urban residential use with concentrations and/or pockets of major institutional uses, local commercial uses and park and open space uses.

The Industrial Locational Guidelines of the *Comprehensive Plan* recommend that industrial sites be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports and as extensions of existing uses. The locational guidelines go on to recommend that industrial uses should be generally located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The requested site conforms to the locational guidelines for close proximity to major arterials and belt highways and extension of industrial land to the east of Maize and along K-42. It conflicts with the locational guidelines of locating industrial uses away from planned residential areas and sited to prevent traffic through less intensive land use areas since industrial traffic from the site to K-42 would be interspersed with local residential traffic on Maize entering and exiting to Harvest Ridge Addition.

The Unified Zoning Code (UZC) would require a 25-foot compatibility setback between non-residential and residential development, and would require screening between non-residential and residential development. The Sedgwick County Access Management Policy would limit the number of access points and their spacing along Maize Road. The requested "LI" zoning provides fewer site development safeguards to buffer the impact of industrial use on nearby residential use than the "IP" Industrial Park zoning district. "IP" would be a more suitable zoning district in this conflicting area.

RECOMMENDATION: The requested change is not in conformance with the "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* adopted by the Sedgwick County Board of County Commissioners and by the Wichita City Council. The comprehensive plan amendments adopted by MAPC on April 28, 2005 shows the area as "urban development mix" and being within the "Wichita 2030 urban service area".

The comprehensive plan amendments provide the boundary for industrial use along the east side of Maize Road north of K-42. Only land oriented to K-42 is designated for industrial use west of Maize Road. A recent zone change, ZON2003-00003, changed the zoning for 3.14 acres on Maize Road from "LI" to "SF-5" to ensure stability for the proposed residential developments.

Based on these factors that the requested rezoning of 80 acres of "LI" west of Maize Road breaches the current boundary of Maize as the divider between industrial and residential use, undermines the investments made based on the recent zone change to "SF-5" for Harvest Ridge Addition and future residential uses to the north, northwest and west associated with development around the Schulte community, and conflicts with the locational guidelines for separating residential and industrial uses and traffic, plus the information available prior to the public hearing, staff recommends the request be DENIED. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Two distinct areas surround this site with Maize Road acting as the boundary between them. The land west of Maize Road to the north, southwest and west of the site is zoned "SF-20" and is mainly in agricultural or low-density residential use. The land south of the site is being developed as Harvest Ridge Addition, with 165 single-family lots in the first phase and another 245 approved as part of a preliminary plat on the western edge of the site. The unincorporated town of Schulte, southwest of the site, has some single-family residential development in it and there is expansion of the Catholic Church's facilities in the town. The area east of Maize Road, which is zoned "LI", is a large industrial area on both sides of K-42 and anchored by the Wichita Mid-Continent Airport and Cessna Aircraft. There is vacant land within the industrial area to be developed. Also, industrial uses are located along K-42 south of the single-family development.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with a single-family use as underway on the adjoining property to the south and planned for the property to the west.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: "LI" zoning at this location could allow uses that are incompatible with the single-family homes on the south and west boundaries of the site and compromise the viability of the property to the north for residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* adopted by the Sedgwick County Board of County Commissioners and by the Wichita City Council identifies the east half of the site as "low-density residential"/"2030 urban service area". The west half is identified as "rural". The comprehensive plan amendments adopted by MAPC on April 28, 2005 shows the area as "urban development mix" and inside the "Wichita 2030 urban service area". Urban development mix comprises predominately urban residential use with concentrations and/or pockets of major institutional uses, local commercial uses and park and open space uses. The Industrial Locational Guidelines of the *Comprehensive Plan* recommend that industrial sites be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports and as extensions of existing uses. The locational guidelines go on to recommend that industrial uses should be

generally located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The requested site conforms to the locational guidelines for close proximity to major arterials and belt highways and extension of industrial land to the east of Maize and along K-42. It conflicts with the locational guidelines of locating industrial uses away from planned residential areas and sited to prevent traffic through less intensive land use areas since industrial traffic from the site to K-42 would be interspersed with local residential traffic on Maize entering and exiting to Harvest Ridge Addition.

5. Impact of the proposed development on community facilities: The requested zone change would introduce an unknown amount of industrial land use and traffic.

DONNA GOLTRY Planning staff presented the staff report.

MITCHELL Do you have a slide of the "new urban mix drawing" (referring to the new comprehensive plan amendments)? How far west?

GOLTRY We could get the map to show you today. Also, I'd like to point out that this is a site of a salt-water reclamation well. I spoke to the person responsible for that well, and he said that it did not affect the use of the property for any of the proposed uses.

JOHNSON How old of a plat is that plat to the south of there, on the residential?

GOLTRY A year or two. Harvest Ridge. I believe, was platted in 2003.

JOHNSON How many homes will go in there?

GOLTRY About 165 in the final platted portion of it and 245 in the preliminary area not final platted yet.

JOHNSON How many homes are finished?

GOLTRY About three appeared to be perhaps occupied and about 10 under construction.

JOHNSON Have they all been notified of this hearing?

GOLTRY Most of it is held under one ownership still.

JOHNSON I am talking about the 3 or 10.

GOLTRY I would have to look, it was a very short ownership notice list.

TERRY SMYTHE, BAUGHMAN COMPANY There are a number of things that staff may not be aware of that are under discussion. One is that the property on the east side of Maize Road, that is Limited Industrial, is in the process of being purchased by the City of Wichita for the Airport Authority Board. The intent for all the industrial property that the Airport Board gets a hold of in the City of Wichita is to provide services for the airport, "in-the-fence" kind of uses, airport-related uses. I see that whole property from Maize Road to the east as really being off the market. There is even some discussion of Tyler Road, which you see on the plan, being realigned along 31st Street and down Maize Road to accommodate the Limited Industrial zoning on the east side, so it is adjacent to the runways of Mid-Continent Airport. What I am looking at is--the property is being taken for Limited Industrial uses related to the Airport--and he (referring to the applicant) is trying to supply industrial uses that are related to the airport but not "in-the-fence" kind of operations. He is looking to use this property for larger industrial users. The 2030 Plan and the Comprehensive Plan have been recently approved, but generally what you see is, when you have these plans done, is a market request that starts to shift and starts to add things to the Comprehensive Plan. Planning staff can't really predict what users will be coming in. The Locational Guidelines of the Comprehensive Plan does indicate the proximity to major arterials; we do meet those criteria.

Now, let me address the issue of Maize Road and the boundary of Maize Road. There are numerous places across town in which industrial uses are located across the street from residential. Lakepoint is a good example. Great Plains Industrial Park, there are homes there. At Reflection Ridge, a lot of the east side of Ridge Road is industrial. All of these housing developments have been doing okay next to industrial. We think that, overall, the locational guidelines tell us this is a good location. I believe there are setback, health, noise requirements, lighting standard requirements, all of which are meant to protect the residential neighborhoods. The salt-water disposal wells that are on the property don't raise a big problem designing houses around the wells. I think it raises a big problem if you want to buy a house with that kind of problem below you. It is a lot easier for large industrial uses to deal with that problem than a lot of single-family homeowners.

ERIC LAMP 11101 W 31 ST SOUTH, WICHITA, KS 67215 We own the property directly north the lot and we own the ground north of that. I stood before you all about five years ago about this property. Some of the faces are still here. I remember it well, that time. We were asking for platting for a residential home there (pointing to his residence), and going through the necessary steps, and I also remember that it was a very through process.

I am going to pass out pictures of our home. I have a direct relationship to the individuals who sold the ground to the applicant here today, though I had nothing to do with sale nor was I in any advisory capacity. I am acting on my own, even though the names are the same. It should be obvious having our homes that close to an industrial park would be something that we would oppose.

One comment that was made today was that the developer of the land to the south had no problem with this zoning change. I am sure that is true, and it works in their favor. My concern is that as a resident there, I have a concern. And, I think it is almost foolish to say that the residents living next to it would not have a voice. These are starter homes (referring to Harvest Ridge Addition) and none are occupied; that is why no one is here from that development. It seems to me that morally there are at least 165 families that are not represented here today.

The salt wells are in the pictures and it (referring to the contamination) has been there since my great grandfather was there. It started in the 1930s. We use well water and have no difficulty. There is a church over here and there is also a K-12 school, which does bring a lot of children and traffic to that area that may not be compatible with industrial development. The example of industrial and residential living next to each other has happened in the past. But, the one reason we have future plans and zoning is to prevent this from happening. The property is zoned in such a way that the Airport Authority will get a lot of use out of it, but most of the airport land is actually appealing to look at. I don't know if the Airport Authority Board will have any hearings but we will speak there if there are. But what is fenced in around the airport, the majority of what you look at is tree-covered, and has deer population and is beautiful to look at, and not industrial in appearance. If the MAPC approves this today, I would request some kind of privacy covenants to protect the houses that are there, and for the future residential.

MITCHELL Show us will you live.

LAMP Indicates on the map.

JOHNSON Show me on the map where the salt disposal is.

LAMP There is a road at the half-mile mark and it is around this area.

SMYTHE Part of what the MAPC is charged with is to review requests like this, and look at the changes that are occurring throughout the City of Wichita. I think with the current employment and industrial happening down at Boeing, and all the other uses you have to look at, this is what is proper and where it should be. You see the changes that are going to occur along the eastside of Maize Road.

BARFIELD You gave me some examples of residential and industrial coexisting. Can you tell me, as best you can, in most of the examples that you gave, was the residential use there first or was the industrial use there first?

SMYTHE Obviously, the stuff down along Mead has been there forever. The land out at Reflection Ridge, that industrial was there previously to Reflection Ridge. Out at Lake Point, that was there out at the east side of Webb, all of the Beech property, a lot of the big pieces were there long before the housing got there.

BARFIELD What I suspected is that in most instances, the industrial was there and then the residential moved around it.

SMYTHE That is probably true.

MARNELL How much of that land is actually under contract for purchase that you say is going the Airport of Authority? Is any of it?

SMYTHE From what I understand, the City of Wichita has all that property under contract to purchase. I just got that information from the landowner.

MARNELL That seems extremely strange to me from being a former member of the Airport Authority, and how hard it was to come by money to buy very small parcels of land, and that is a lot of land.

SMYTHE I believe that is why the City of Wichita has purchased it and not the Airport Authority.

GAROFALO Would the applicant be agreeable if this were approved to limit the uses? By right there are all kinds of stuff that can go in there.

SMYTHE I would have to ask them and sit down with them.

GAROFALO At this point it looks like something you could work out with staff about limiting the uses of the industrial land.

SMYTHE When I first filed this, Donna and I did talk about requesting an Industrial Park and what we found out is that an Industrial Park has almost identical uses. There are just different setback requirements, and, I think, fencing requirements, probably. We talked about that, and from my standpoint, I am not sure that staff would support Industrial Park zoning, but if you think we can sit down and discuss with staff maybe limiting some uses that they find offensive, I would be agreeable to do that. Maybe you ought to direct it to John and Donna.

JOHNSON Being familiar with this area, I think it is a whole lot bigger picture than what we are seeing today. The property to the east has been traded to the City of Wichita. Some time ago, there was a company looking for a 30-acre tract and was told by the City or the Airport that they didn't want somebody not aircraft-related on this area. If that is factual, I think that is a very important part of making a decision on this zoning case. I think the real thing I want to look at is the amount of money we have invested in Mid-Continent. And, we are getting ready to do a new terminal, and all this. I am not sure John remembers. For some time, there was supposed to be a Master Plan of the airport. I don't know if we were ever shown that Plan, and does anybody know where that plan is? I don't agree or disagree with totally what everybody has said here today. I just want to demonstrate there is a bigger picture here today.

MARNELL I would like to hear more from the airport and what they are going to do with this whole area, and see what we are doing with the long range plans, and see if we are compatible.

SCHLEGEL I would be glad to arrange to have the airport staff to come to a future meeting.

MCKAY I would like to have staff show us all the industrial zoned area, and there is a lot more than you are showing on the slides today. I also know that less than a mile north of here are two brand new housing subdivisions going in. This has been one of the hottest areas for single-family developments.

BISHOP I have family that lives just a little bit north of here. The bigger picture about the new and proposed residential developments that are going in, is the list of uses from "LI" is extensive and it includes things such as a night-club in the county, sexually-oriented businesses, tavern and drinking establishments, vocational schools, etc., I think some of the more objectionable businesses need to be looked at between now and when we consider it next.

BARFIELD It appears to me that the amendments that are alluded to here are not old amendments. These amendments were made April 2005. So, I think we were looking at the bigger picture before the amendments came out. Those amendments clearly provide a boundary for industrial use on the east side of Maize Road.

JOHNSON How much information have you had from the Airport Authority?

SMYTHE Other than a couple of phone calls and a couple of the Board members talking to me, I would say very, very, little. If we are going to request for more information, I would like to request for the fact that we get more information on the location of the sewer plant. We have kind of identified a couple of sites right along the airport as the best sites, but nobody has really said that there isn't a major problem with the FAA on those sites. There are a number of sites up and down Maize Road, even on the west side of Maize Road about a mile up, that are being looked at as a potential location.

MCKAY There is industrial as far down as 119th, and that is not even on that map. And, when we were hearing the Industrial Park on the east side of Maize Road, your applicant was opposed to industrial zoning in that area.

BISHOP I would like staff to make the effort to have the developer of the residential areas be present at these public hearings.

MOTION: To defer indefinitely.

MARNELL moved, **BISHOP** seconded the motion, and it carried 10-0.

SCHLEGEL Let me call the Airport staff and see when they can be here.

MARNELL I don't want to delay the applicant but we need more information before we make a decision.

10. **Case No.: ZON2005-19** – Resurrection Lutheran Church (Noreen A Sholts) / Baughman Company, P.A., (Terry Smythe) Request Sedgwick County Zone change from "RR" Rural Residential to "SF-20" Single-family Residential on property described as;

Lot 1, Block A, Resurrection Lutheran Church 2nd Addition, Haysville, Sedgwick County, Kansas. Generally located 400 feet north of 71st Street south, east of West Street.

BACKGROUND: The application area is an irregularly shaped platted lot located approximately 400 feet north of the intersection of 71st Street South and east of West Street. The application area contains 9.71 acres, and is currently zoned RR Rural Residential. The applicant is seeking to rezone the property to SF-20 Single-family Residential to permit a church. The site is located within 2,000 feet of the City of Haysville, which triggers a zoning area of influence review by that city's planning commission. The site is undeveloped today.

The application area is located adjacent to a Sedgwick County Fire Station, which is located right on the corner of the intersection of West Street and 71st Street. All other nearby land is undeveloped and used for agricultural purposes, and also zoned RR Rural Residential.

CASE HISTORY: Resurrection Lutheran Church 2nd Addition was recorded in March 2003.

ADJACENT ZONING AND LAND USE:

NORTH: RR Rural Residential; farm field
SOUTH: RR Rural Residential; fire station and farm field
EAST: RR Rural Residential; farm field
WEST: RR Rural Residential; farm field

PUBLIC SERVICES: The site was platted under Haysville's platting jurisdiction. If guarantees for the extension of services were not ensured with the plat, the applicant will need to contact County Code Enforcement for on-site service requirements. 71st Street is a paved two-lane road. West

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan does not speak directly to institutional uses such as a church, however the plan does recognize that certain non-residential uses, such as a church or elementary school or emergency service can be appropriate uses in a low-density residential setting.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding property is zoned RR Rural Residential. All surrounding property is used for agricultural purposes, except for the fire station.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned RR Rural Residential. The code permits churches in the RR district with a Conditional Use permit. The RR district permits residential uses on two-acre lots, and the site could be developed as zoned. However, given the site's proximity to Haysville's city limits, it does not make good land use sense to create a two-acre lot subdivision that close to Haysville. Also, given its proximity to the fire station, a church surrounding the fire station makes a good transitional use and buffer.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Neither the agricultural use nor the fire station should be detrimentally affected by this request.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan does not speak directly to institutional uses such as a church, however the plan does recognize that certain non-residential uses, such as a church or elementary school or emergency service can be appropriate uses in a low-density residential setting.
5. Impact of the proposed development on community facilities: The section line roads will experience increased traffic

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **DOWNING** seconded the motion, and it carried 10-0.

11. Other matters/adjournment.

SCHLEGEL In the back of your package there is a e-mail that I received from Keith Lawing who is with REAP and WSU regarding the South Central Water Coalition holding a water conference on June 23rd & 24th in Hesston and brought to your attention if you would like to attend.

The Metropolitan Area Planning Department informally adjourned at 3:25 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2005.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)